IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

IN RE PARENTAGE OF R.D.C.,	)	
	)	No. 66701-7-I
JAMES D. CHRISTIANSON,	)	
Appellant,	)	MANDATE
v.	)	
	)	King County
SEDERIS W. WRIGHT,	)	
	)	Superior Court No. 01-5-00795-6.KNT
Respondent.	)	

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for King County.

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division I, filed on July 23, 2012, became the decision terminating review of this court in the above entitled case on November 9, 2012. An order denying a motion for reconsideration was entered on August 24, 2012. An order denying a motion for clarification or reconsideration of opinion was entered on September 11, 2012. This case is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the decision.

Pursuant to RAP 14.4, costs in the amount of $780.73 are awarded against judgment debtor SEDERIS W. WRIGHT and awarded in favor of judgment creditor JAMES D. CHRISTIANSON.

c: James Christianson ✓
Donald Ferrell
Hon. James E. Rogers

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Seattle, this 9th day of November, 2012.

RICHARD D. JOHNSON
Court Administrator/Clerk of the Court of Appeals,
State of Washington, Division I.

SEAL OF THE COURT OF APPEALS • STATE OF WASHINGTON •

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THE COUNTY OF KING

In re Parenting of: R.D.C. (dob 2/24/2010) Child, JAMES D. CHRISTIANSON Petitioner, and SEDERIS W. WRIGHT Respondent.	No. **01-5-00795-6 SEA** COURT OF APPEALS 7/23/2012 DECISION REVERSING JUDGE JIM ROGERS' 12/13/2010 ORDER OF CHILD SUPPORT

Attached herewith is a true copy of the Court of Appeals decision dated July 23, 2012, which reverses and remands Judge Jim Rogers' December 13, 2010 Order of Child Support. The Court of Appeals decision specifically reverses Judge Rogers' order that the mother pay 100% of long-distance transportation costs and the father pay 100% of daycare and uninsured medical costs.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Federal Way, Washington on July 23, 2012.

James D. Christianson, Petitioner

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IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

IN RE PARENTAGE OF R.D.C.,	)	No. 66701-7-I
JAMES D. CHRISTIANSON,	)	
Appellant,	)	DIVISION ONE
v.	)	UNPUBLISHED OPINION
SEDERIS W. WRIGHT,	)	
Respondent.	)	FILED: July 23, 2012

SPEARMAN, A.C.J. — James Christianson challenges portions of a child support order which require him to pay 100 percent of the costs for day care and health care, and the other parent to pay 100 percent of the costs for long distance transportation. But unless the court first decides to deviate from the standard calculation, RCW 26.19.080 requires these expenses to be allocated in proportion to each parent's share of the combined income in the same manner as the basic support obligation. Accordingly, we reverse in part, affirm in part, and remand.

FACTS

James Christianson and Sederis Wright are the parents of R.C., a daughter born in February 2001. Within a year of R.C.'s birth, Wright moved to California and has lived there ever since. R.C. resides in Washington with Christianson. In October 2001, the court entered agreed orders drafted by Wright's former counsel, including an order of child support. Christianson was not represented and continues to represent himself in these proceedings. In the initial order of child support, the parties stipulated to equal

income and agreed that Wright would make a transfer payment of $300 per month to Christianson, which represented a 50 percent share of the total obligation. With respect to expenses not included in the transfer payment, the order provided that Wright would pay 100 percent of future long distance travel expenses, while Christianson would pay 100 percent of future day care, medical/health care costs, and extraordinary health care costs.

In 2002, Christianson sought to modify the child support order, specifically to alter the allocation for day care costs. He pointed out that at the time of the original order, the child was not enrolled in day care because he was not working. Because these circumstances had changed, he asked the court to amend the order so each parent would pay 50 percent of the costs in accordance with each parent's proportion of the combined income. The petition was denied.[1]

Christianson filed a petition to modify the order seeking proportional allocation of day care costs and health care expenses again in 2004. The court dismissed the petition because there were no substantial change in circumstances and the issue of allocation of day care costs was barred by res judicata.

In 2007, Christianson filed a petition to adjust support based on changes in income. He also wanted to enroll R.C. in a private school and for Wright to contribute to the cost.[2] The court adjusted child support based on the established income changes

[1] The court's order does not state the basis for denial.

[2] Christianson also initially sought contribution for day care costs, but withdrew the request at the hearing on his motion.

but declined to order contribution for private school tuition because there was no showing that private school was necessary to meet R.C.'s needs. The 2007 adjusted order left in place the allocation for long distance transportation costs, day care, and extraordinary medical costs. The court also ordered Christianson to pay 100 percent of health care costs until a future date when R.C. could be added to Wright's medical insurance.[3]

In 2010, Christianson filed the instant motion, again seeking to adjust child support based on changes in income. In a separate filing, he asked the court to impose sanctions.

The parties agreed that income changes warranted adjustment, but disagreed on the income calculations. At the hearing on the petition, Christianson challenged certain income deductions Wright had taken. The court directed Wright's counsel to submit further documentation to clarify the amounts deducted. Christianson also took the position that there was no current need for the mother to maintain health insurance for R.C. because she was insured through a state program that was less expensive than the coverage provided through Wright's employment. In response to Wright's post hearing submission, Christianson raised the issue that proportional allocations for health care, day care, and transportation costs are mandatory under the child support statute.

The court entered an order adjusting support but leaving in place the allocation percentages for long-distance transportation, day care, and health care costs:

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[3] Christianson filed an appeal challenging, among other things, the court's decision denying contribution for private school tuition. In an unpublished decision, this court affirmed the court's order. In re Parentage of R.D.C., No. 60906-8, 2009 WL 58921 (Wash. January 12, 2009).

> The court makes this unusual split due to the lengthy history of bitter acrimony between the parties resulting in special procedures precluding contact. If there are truly extraordinary health care costs, the father may apply directly to the court for a hearing. [4]

Clerk's Papers (CP) at 336.

Christianson moved for reconsideration, primarily arguing that the court erred by not proportionally allocating costs and declining to impose sanctions.

The court denied the motion. With respect to allocation of expenses not included in the transfer payment, the court concluded:

> This portion of the Order has been in place since the beginning of this case and was originally agreed between the parties when day care was used more often than it is now (that is, before the child was in school). The purpose was to eliminate communication between mother and father due to great acrimony between them and mother's request.
>
> Mr. Christianson objects that this case is not so unusual and the law requires a proportional split. In fact, this case is singular. See e.g. subs number 36, 40B, 224, 272, 293, and 294 (these are the Guardian ad Litem reports). Every motion is accompanied by motions for sanctions which are not justified. This case has 587 sub numbers and the child has many years to grow to the age of majority. The acrimony in this case is far worse than any in [sic] this court's experience. That is the reason why this Court accepted jurisdiction for the life of the child. The finding supporting this portion of the Order is amply supported by the record.

[4] The court's order further relieves Wright of the current obligation to provide health insurance for R.C., but provides that "if extraordinary health care costs would have been covered by mother's insurance, this court may reverse the decision today and return to coverage by mother, whatever is in the best interest of the child." CP 336.

> Mr. Christianson argues that for the time period 2007-2010, there has been acrimony, but the entire problem has been caused by Mr. Ferrell. This is an inaccurate observation. Again, the record supports the finding.

CP at 284-85. The court also refused to revisit its ruling on CR 11 sanctions, and reserved the right to sanction the losing party upon a future CR 11 motion. Christianson appeals.

I. Allocation of Health Care, Day Care, and Transportation Costs

As he did below, Christianson challenges the allocation of payment for transportation, day care, and health care as between the parties. He contends that the court must allocate these costs in accordance with the parties' proportional share of the combined income, and lacks discretion to allocate the costs entirely to one parent. He is correct.

We review child support orders for manifest abuse of discretion. In re Marriage of Booth and Griffin, 114 Wn.2d 772, 776, 791 P.2d 519 (1990). To prevail on appeal, Christianson must show that the trial court's decision was manifestly unreasonable, or was based on untenable grounds or untenable reasons. In re Marriage of Littlefield, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997). "A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard." Littlefield, 133 Wn.2d at 47.

To determine child support, courts apply the uniform child support schedule, RCW 26.19.020; .035(1)(c); In re Marriage of Pollard, 99 Wn. App. 48, 52, 991 P.2d 1201 (2000). In establishing this schedule the legislature intended "to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living" and also to insure that the child support obligation is "equitably apportioned between the parents." RCW 26.19.001. The first step is to set the basic child support obligation based on the parents' combined monthly net income and the number and ages of the children. RCW 26.19.011(1), 020; In re Marriage of McCausland, 159 Wn.2d 607, 611, 152 P.3d 1013 (2007). The obligation amount is determined from an economic table. RCW 26.19.020.

The next step is to determine the gross support obligation by adding to the basic support health care, day care, and special expenses not included in calculating the basic obligation. RCW 26.19.080; see also ch. 26.19 RCW Appendix-Child Support Schedule, Econ. Table Instructions Parts II, III. Trial courts have discretion to determine the "reasonableness" and "necessity" of these expenses not accounted for in the basic child support obligation. RCW 26.19.080(4). This total is then allocated according to each parent's share of the combined monthly income. RCW 26.19.080.

Finally, any child support credits are deducted, producing the standard calculation. Ch. 26.19 RCW Appendix, Econ. Table Instructions Parts IV, V. The court may deviate upward or downward from the standard calculation upon entry of written findings of fact. RCW 26.19.075.

Health care, long distance travel, and day care expenses are not accounted for in the basic child support obligation. RCW 26.19.080(2),(3). Once the trial court determines that the expenses not accounted for in the basic obligation are reasonable and necessary, "it is required to allocate them in proportion with the parents' income." In re Yeamans, 117 Wn. App. 593, 600, 72 P.3d 775 (2003); In re Marriage of Scanlon and Witrak, 109 Wn. App. 167, 181, 34 P.3d 877 (2001); In re Paternity of Hewitt, 98 Wn. App. 85, 88-89, 988 P.2d 496 (1999); Murphy v. Miller, 85 Wn. App. 345, 349, 932 P.2d 722 (1997); RCW 26.19.080 (2)(3) (such expenses "shall be shared by the parents in the same proportion as the basic child support obligation.").[5]

For example, in Yeamans, the trial court ordered the father to bear 100 percent of the long distance travel expenses. The trial court explained that it ordered the allocation "partly because [the father's] decision to move made the expenses necessary and partly because it was denying [the mother's] request to reduce her basic support obligation." Yeamans, 117 Wn. App. at 601. The trial court "expressly stated that its decision to deny [the mother's] deviation request was to defray the travel costs to be imposed on [the father]." Id.

We reversed the trial court's order because "if a court does not deviate from the basic support obligation, then it cannot deviate from the extraordinary expenses." Id.

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[5] The statute, as amended in 2009, does not differentiate between ordinary and extraordinary health care costs, and simply provides that health care costs are not included in the basic support obligation and must be allocated based on each parent's proportional share of the combined income. RCW 29.19.080(2). The former statute, however, required only that extraordinary health care costs—those exceeding 5 percent of the basic support obligation—had to be allocated proportionally in accordance with each parent's share of the combined income. Former RCW 26.18.080(2) (1996).

Nevertheless, because the amount of child support was determined in relation to the disproportionate travel expenses allocated, we held that the trial court could revisit the issue on remand and determine whether to grant or deny a deviation based upon the evidence before it. Id.

Unlike in Yeamans, the evidence here does not suggest that the trial court disproportionately allocated costs as a way to address income disparity. Instead, the basis for the allocation was a unique history of acrimony between the parties, the need to limit contact between them, and because Christianson initially agreed to the provisions in 2001.

While the court's findings supporting its decision appear to have ample factual support in the record, nothing in the statute authorizes the court to exercise discretion in the allocation of such costs. Although the trial court has broad discretion in setting child support, in enacting RCW 26.19.080, the legislature has eliminated that discretion with respect to allocation of the costs designated in the statute. Yeamans, 117 Wn. App. at 601; Murphy, 85 Wn. App. at 350. The court's discretion is limited to determining whether the health care, day care, and other expenses not included in the basic support obligation amount are necessary and reasonable. In re Hewitt, 98 Wn. App. at 89; RCW 26.19.080(4).

Our courts have recognized only one exception to the proportional allocation rule. That is, when a court decides to deviate from the standard support calculation, it may also deviate with respect to the expenses set forth in RCW 26.19.080. Yeamans, 117 Wn. App. at 600; Hewitt, 98 Wn. App. at 89-90; In re Marriage of Casey, 88 Wn. App.

662, 667, 967 P.2d 982 (1997). In Casey, where the mother's income was approximately 10 percent of the parties' combined income, the trial court granted the mother a deviation from her basic support obligation in the child support order. The order reduced her monthly payment to $0 and imposed 100 percent of travel expenses on the father to transport the children from his new home in Texas to Washington State, where the parents had lived during the marriage. The court affirmed the child support order on appeal, including its allocation of 100 percent of the travel costs to the father, because the trial court deviated from the basic support obligation. Casey, 88 Wn. App. at 667.

But the child support order in this case did not deviate from the standard calculation. Thus, it was improper for the trial court to allocate medical, day care, and long distance transportation expenses disproportionate to the parties' share of the combined income. For that reason, we reverse the trial court's order. In doing so, we note that neither party has established the existence and extent of costs for medical care, day care, or transportation, nor has the trial court had an opportunity to exercise its discretion as to the necessity and reasonableness of such costs. On remand, if it finds such costs necessary and reasonable, the court may adjust the gross child support obligation and allocate that amount proportionally according to the statutory standards. However, nothing in our decision prevents the trial court from deviating from the standard calculation if the court finds there is a basis to do so and enters necessary findings and conclusions.

II. Sanctions

Christianson further contends that the trial court erred by refusing to sanction Wright, her attorney, and her sister under CR 11. We leave the decision of whether to impose sanctions under CR 11 to the trial court's sound discretion. Eller v. East Sprague Motors & R.V.'s, Inc., 159 Wn. App. 180, 189, 191, 244 P.3d 447 (2010). In seeking sanctions, Christianson largely relied on a history of alleged abuse and misdeeds by Wright's counsel that predated his 2010 motion to adjust support. The only conduct Chistrianson cited that occurred during the current proceedings was counsel's reference in a procedural motion to a "serious personality disorder." CP at 47. He also alleged that counsel inappropriately advised and encouraged Wright's sister, a non-attorney, to practice law. But CR 11 authorizes only the imposition of sanctions based on court filings that are either baseless or made for improper purposes. MacDonald v. Korum Ford, 80 Wn. App. 877, 883, 912 P.2d 1052 (1996). Christianson's allegations do not implicate CR 11. We find no abuse of discretion in the court's decision declining to impose sanctions. And the court's warning to Christianson with regard to future frivolous motions for sanctions does not impede his access to the court in any manner.

Affirmed in part; reversed in part and remanded.

Spearman, J.

WE CONCUR:

Leach, C.J.

Becker, J.